

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

DAVID PATE, #1969113	§	
VS.	§	CIVIL ACTION NO. 6:15cv275
DIRECTOR, TDCJ-CID	§	

ORDER OF DISMISSAL

Petitioner David Pate, an inmate confined in the Texas prison system, proceeding *pro se*, filed the above-styled and numbered petition for a writ of habeas corpus challenging his Smith County conviction for possession of a controlled substance. The petition was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the petition should be denied. Petitioner has filed objections.

The record in this case makes it abundantly clear that Petitioner entered a guilty plea knowingly, voluntarily and intelligently; thus, it will be upheld. *Montoya v. Johnson*, 226 F.3d 399, 405 (5th Cir. 2000). By entering a knowing and voluntarily guilty plea, he waived all nonjurisdictional deprivations that occurred prior to trial. *Tollett v. Henderson*, 411 U.S. 258, 267 (1973). The present petition lacks merit. Moreover, Petitioner is not entitled to relief because he did not satisfy the requirements of 28 U.S.C. § 2254(d). His objections primarily focused on claims of entrapment, but Magistrate Judge Mitchell correctly explained that he is not entitled to relief on such claims because he failed to exhaust his state remedies on the claims.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of

Petitioner are without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the Report and Recommendation (docket entry #14) is **ADOPTED**. It is further

**ORDERED** that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. All motions not previously ruled on are hereby **DENIED**.

**It is SO ORDERED.**

**SIGNED this 30th day of July, 2015.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE